

A1  
Concl

(d) wherein the two sets of contacts are adapted to become lockingly and conductively interengaged upon engagement of the alignment post with the central opening and in response to rotation of the battery pack relative to the handpiece.

---

### REMARKS

Claim 1 has been amended and a marked-up version of the amended claim is attached pursuant to 37 C.F.R. § 1.121.

#### Terminal Disclaimer

A terminal disclaimer is submitted with the present Response. Accordingly, claims 3-12 are deemed allowable.

#### Election

Although Applicant confirms the election made with respect to Group I, claims 1-12 and 21, on September 16, 2002, Applicant respectfully directs the Examiner's attention to the revocation of the Power of Attorney, effective August 27, 2002.

#### Claim rejections

Claim 1 stands rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 5,643,954 to Bruns et al. ("Bruns"). As the PTO provides in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim...." Therefore, the Bruns patent must disclose all of the elements of the claims to sustain the rejections. Accordingly, Applicant respectfully traverses this rejection on the following grounds.

According to MPEP § 2131, to anticipate a claim, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim". Claim 1, as amended, recites in part a sterile package comprising a disposable battery pack having an attachment end. Bruns fails to teach or suggest such an element and claim 1 is allowable over the Bruns patent.

Claim 2 depends from and further limits claim 1 and is also allowable.

Claim 21 has been canceled and the rejection with respect to this claim is deemed moot.

Conclusion

Therefore, it is respectfully submitted that independent claims 1, 3-5, and 11 are in condition for allowance. Dependent claims 2, 6-10, and 12 depend from and further limit their respective independent claims and therefore are allowable as well.

Should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the below listed telephone number.

Respectfully submitted,

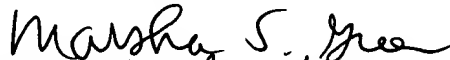
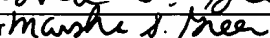


David M. O'Dell  
Registration No. 42,044

Dated: 12-20-02  
HAYNES AND BOONE, LLP  
901 Main Street, Suite 3100  
Dallas, Texas 75202-3789  
Telephone: 972/739-8635  
Facsimile: 972/692-9118  
File: 31934.24  
r-37284\_1.DOC

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, Box Non-Fee Amendment, Washington, D.C. 20231

on December <sup>20</sup>~~16~~, 2002

  
Dayle Conner 



27683

PATENT TRADEMARK OFFICE

**Marked-up Claims Pursuant to CFR § 1.121**

1. (Amended) A surgical instrument comprising:

(a) a handpiece having a tool supporting end, and a battery receiving end;

(b) a sterile package comprising a disposable battery pack having an attachment end;

(c) one of the battery receiving end and attachment end having an alignment post with a plurality of electrical contacts arranged concentric thereto, and the other thereof having a central opening defining a longitudinal axis with a set of electrical contact elements concentric to that axis; and

(d) wherein the two sets of contacts are adapted to become lockingly and conductively interengaged upon engagement of the alignment post with the central opening and in response to rotation of the battery pack relative to the handpiece.